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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

DEVIN COLE, on behalf of himself and
all others similarly situated,

Plaintiff(s),

vs.

SIERRA PACIFIC MORTGAGE
COMPANY, INC., and DOES 1 through
10, inclusive

Defendant.

Case No. 3:18-cv-01692-JCS

CLASS ACTION

**UPDATED JOINT CASE
MANAGEMENT STATEMENT**

1 Pursuant to Federal Rule of Civil Procedure 26(f), Civil Local Rule 16-9, and
2 this Court's Order(s), Plaintiff Devin Cole ("Plaintiff") and Defendant Sierra Pacific
3 Mortgage Company, Inc. ("SPMC" or "Defendant") jointly file the following Joint
4 Case Management Statement in anticipation of the Case Management Conference
5 scheduled for September 10, 2021.

6 **DEVELOPMENTS SINCE PRIOR CASE MANAGEMENT CONFERENCE:**

7 ***Plaintiff's Position:***

8 Plaintiff's expert has submitted a report regarding the dialing system ("ATDS"
9 or "autodialer") on August 23, 2021 and defendant's opposing report is due later this
10 month.

11 Defendant has responded to Plaintiff's discovery requests but has yet to transmit
12 related document (but is in the process of preparing the documents and the parties
13 anticipate they will be received by Plaintiff prior to the CMC).

14 A "threshold issue" motion regarding the autodialer issue is anticipated and
15 should proceed on the schedule previously set by the Court. On that point, Plaintiff
16 wishes to clarify the briefing schedule for the anticipated motion (ostensibly it will be
17 Defendant's motion for summary adjudication as to whether defendant used an
18 "autodialer" as defined in the Supreme Court's recent ruling in *Facebook v. Duguid*).
19

20 ***Defendant's Position:***

21 SPMC is on track to serve its rebuttal expert report on the dialing system by the
22 September 23, 2021 deadline. SPMC also intends to depose Plaintiff's proffered
23 expert prior to the October 22, 2021 deadline to complete expert discovery. SPMC
24 will meet and confer with Plaintiff regarding an agreeable date prior to the Case
25 Management Conference.

26 With respect to the October 29, 2021 deadline to file a motion for summary
27 judgment on the ATDS issue, SPMC wishes to discuss with the Court the form of the
28 motion and the briefing schedule. In addition, SPMC wishes to discuss with the Court

its preferred form and manner of any challenge to the admissibility of Plaintiff's expert testimony. SPMC will meet and confer with Plaintiff regarding these issues prior to the Case Management Conference.

DATED: September 3, 2021

/s/ Patric A. Lester

Patric A. Lester

Attorney for Plaintiff Devin Cole

DATED: September 3, 2021

/s/ David W. Martin

David W. Martin

Attorney for Plaintiff Devin Cole

DATED: September 3, 2021

/s/ Matthew Morr

Matthew Morr

Attorneys for Defendant Sierra Pacific
Mortgage Company, Inc.

CERTIFICATION OF APPROVAL OF CONTENT

I, David Martin, counsel for Plaintiff, in the above-entitled matter, hereby certify that the required parties have approved and accepted the content of the Joint Case Management Statement and that I have obtained authorization Matthew Morr, for his electronic signature on the Joint Case Management Statement.

DATED: September 3, 2021

/s/ David W. Martin

David W. Martin

Attorney for Plaintiff Devin Cole